

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

STATE OF OHIO  
EX REL TED MARCUM,

Petitioner, : Case No. 3:17-cv-437

- vs -

District Judge Walter H. Rice  
Magistrate Judge Michael R. Merz

SHERIFF DAVE DUCHAK,

:  
Respondent.

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**ORDER ADOPTING IN PART REPORT AND RECOMMENDATIONS  
ON MOTIONS TO DISMISS**

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This case is before the Court on the Magistrate Judge's Report and Recommendations (ECF No. 41) recommending that the Motion to Dismiss of Defendant Steve Layman (ECF No. 9) be granted in its entirety and the Motion to Dismiss of Defendants Dave Duchak, Elizabeth Gutmann, and Rob Davie (ECF No. 7) be granted in part. The Report was served on Petitioner Marcum on February 23, 2018, and he was notified that any objections were required to be served not later than seventeen days later (ECF No. 41, PageID 639). Thus his time to file and serve objections expired March 12, 2018, but he has filed no objections.

Accordingly, the Report and Recommendations are ADOPTED insofar as they recommend dismissing with prejudice all claims against Defendants Layman, Gutmann, and Davie and all

claims against Defendant Duchak except for Marcum's Equal Protection claim regarding failure to provide a free telephone call to contact a bondsman or attorney<sup>1</sup>.

March 19, 2018.



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Walter H. Rice  
United States District Judge

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<sup>1</sup> Sheriff Duchak has objected to the Magistrate Judge's failure to recommend dismissal of this claim (ECF No. 45) and the Court has recommitted the Motion to the Magistrate Judge for reconsideration in light of those Objections (ECF No. 46).